

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

* * *

DONTAE SMITH,

Plaintiff,

v.

DR. WILLIAMSON, *et al.*,

Defendants

Case No. 3:19-cv-00357-MMD-CLB

ORDER

This action began with a *pro se* civil rights complaint filed under 42 U.S.C. § 1983 by a state prisoner. On May 21, 2020, this Court issued an order directing Plaintiff to file his updated address with this Court within 30 days. (ECF No. 3.) The 30-day period has now expired, and Plaintiff has not filed his updated address or otherwise responded to the Court's order. The Court will therefore dismiss this case.

District courts have the inherent power to control their dockets and “[i]n the exercise of that power, they may impose sanctions including, where appropriate . . . dismissal” of a case. *Thompson v. Hous. Auth. of City of Los Angeles*, 782 F.2d 829, 831 (9th Cir. 1986). A court may dismiss an action, with prejudice, based on a party's failure to prosecute an action, failure to obey a court order, or failure to comply with local rules. See *Ghazali v. Moran*, 46 F.3d 52, 53-54 (9th Cir. 1995) (affirming dismissal for noncompliance with local rule); *Ferdik v. Bonzelet*, 963 F.2d 1258, 1260-61 (9th Cir. 1992) (affirming dismissal for failure to comply with an order requiring amendment of complaint); *Carey v. King*, 856 F.2d 1439, 1440-41 (9th Cir. 1988) (affirming dismissal for failure to comply with local rule requiring *pro se* plaintiffs to keep court apprised of address); *Malone v. U.S. Postal Serv.*, 833 F.2d 128, 130 (9th Cir. 1987) (affirming dismissal for failure to comply with court order); *Henderson v. Duncan*, 779 F.2d 1421, 1424 (9th Cir. 1986) (affirming dismissal for lack of prosecution and failure to comply with local rules).

1 In determining whether to dismiss an action for lack of prosecution, failure to obey a court
2 order, or failure to comply with local rules, the court must consider several factors: (1) the
3 public's interest in expeditious resolution of litigation; (2) the court's need to manage its
4 docket; (3) the risk of prejudice to the defendants; (4) the public policy favoring disposition
5 of cases on their merits; and (5) the availability of less drastic alternatives. *See Thompson*,
6 782 F.2d at 831; *Henderson*, 779 F.2d at 1423-24; *Malone*, 833 F.2d at 130; *Ferdik*, 963
7 F.2d at 1260-61; *Ghazali*, 46 F.3d at 53.

8 Here, the Court finds that the first two factors weigh in favor of dismissal. The third
9 factor—risk of prejudice to Defendants—also weighs in favor of dismissal, since a
10 presumption of injury arises from the occurrence of unreasonable delay in filing a pleading
11 ordered by the court or prosecuting an action. *See Anderson v. Air West*, 542 F.2d 522,
12 524 (9th Cir. 1976). The fourth factor—public policy favoring disposition of cases on their
13 merits—is greatly outweighed by the factors in favor of dismissal discussed herein. Finally,
14 a court's warning to a party that his failure to obey the court's order will result in dismissal
15 satisfies the "consideration of alternatives" requirement. *Ferdik*, 963 F.2d at 1262; *Malone*,
16 833 F.2d at 132-33; *Henderson*, 779 F.2d at 1424. The Court's order requiring Plaintiff to
17 file his updated address with the Court within 30 days expressly stated: "IT IS FURTHER
18 ORDERED that, if Plaintiff fails to timely comply with this order, the Court shall dismiss
19 this case without prejudice." (ECF No. 3.) Thus, Plaintiff had adequate warning that
20 dismissal would result from his noncompliance with the Court's order to file his updated
21 address within 30 days.

22 It is therefore ordered that this action is dismissed without prejudice based on
23 Plaintiff's failure to file an updated address in compliance with this Court's May 21, 2020
24 order.

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1 It is further ordered that the application to proceed *in forma pauperis* (ECF No. 1)
2 is denied as moot.

3 It is further ordered that the Clerk of the Court enter judgment accordingly and close
4 this case.

5 DATED THIS 2nd day of July 2020.

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MIRANDA M. DU
CHIEF UNITED STATES DISTRICT JUDGE